

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:20349 OF 2007

Dated: 29.10.2007

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Between:

The Chief Executive Officer, Zilla Parishad,
Srikakulam District, Srikakulam. **..Petitioner**

And

1. A.Jagannadharao & others. **..Respondents**

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:20349 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to set aside the order passed by the tribunal on 2.8.2007 in O.A.No:6456 of 2004.

The 1st respondent herein is the applicant before the Tribunal. He filed the above O.A., seeking to direct the respondents to grant and release the full commutation of pension to the applicant along with interest at 12% p.a. on the delayed payments of pensionary benefits from the date of retirement till its realization with all consequential and attendant benefits. The tribunal having observed that no counter affidavit has been filed by the respondent even though this case pertains to a pensioner who is now aged about 68 years and in view of the background of the case, it must be considered that the averments of the applicant in the O.A remain un-rebutted, directed the respondents to grant and release the full commutation of pension to the applicant along with interest at 12% p.a. on the delayed payments of his pensionary benefits from the date of retirement till its realization with all consequential and attendant benefits. Having aggrieved by the same, the present writ petition is preferred by the 2nd respondent-petitioner.

Heard the learned Standing Counsel appearing for the petitioner, the learned counsel for the 1st respondent-applicant, the learned Government Pleader for 2nd respondent and Sri A. Rajasekhara Reddy (Assistant Solicitor General) for 3rd respondent.

It is the contention of the learned counsel for the petitioner that the Government of A.P vide G.O.Ms.No:40, dated 7.5.2002 transferred the powers of sanctioning pension and other benefits of the teachers and therefore, the Zilla Parishad has absolutely no power or authority to sanction the pensionary benefits to the retired teachers and that the applicant is bound to fill up form-B and submit the same along with medical certificate as contemplated under the commutation rules and on receipt of the same, his commutation will be paid by the 3rd respondent herein and that the tribunal without applying its mind and contrary to the rule 5 (1) (2) of the A.P. Civil Pension commutation Rules, 1944, passed the order impugned and therefore, the same is liable to be set aside.

Before going into the merits of the case, it is pertinent to note that the dismissal of the applicant from service was set aside by the tribunal in O.A.No:7634 of 1998 on 18.11.1998 and apart from that, no other disciplinary proceedings are kept pending against him. At this stage, when the respondents have failed to release the commutation pension in connection with his retirement, the applicant has approached the tribunal in the year 2004 seeking to direct the respondents to grant and release the full commutation of pension to the applicant along with interest at 12% p.a. on the delayed payments of pensionary benefits from the date of retirement till its realization with all consequential and attendant benefits. Even during the course of pendency the present O.A., the respondents have not evinced any interest in prosecuting the case by filing any counter. In those

circumstances, there is no other go except to hold that the case of the applicant, remain unchallenged. In the said circumstances, the tribunal is justified in observing that the case of the applicant remains unchallenged and passing the order impugned.

Under the above circumstances, We feel that the tribunal is justified in passing the order impugned, which needs no interference by this Court. Hence, We see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

Justice T. Meena Kumari

Justice G. Chandraiah

Date: 29th October, 2007
Nn/Gurc.

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION No:20349 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

29.10.2007

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